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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,713	08/12/2003	Edward A. Verdugo	GDEAV01B	1712

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EXAMINER
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THOMSON, MICHELLE R

ART UNIT	PAPER NUMBER
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3641

DATE MAILED: 03/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/604,713

Applicant(s)

VERDUGO, EDWARD A.

Examiner

Michelle (Shelley) Thomson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 8/12/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "52" has been used to designate both "buffer tube" and "stock". The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 62. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

2. The disclosure is objected to because of the following informalities: the pages of the specification including claims and abstract must be numbered consecutively, starting with 1, the numbers being centrally located above or preferably, below, the text (MPEP 608.01).

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-42 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are generally narrative and indefinite and are replete with grammatical and idiomatic errors, failing to conform with current U.S. practice. The claim(s) are replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. Note the format of the claims in the patent(s) cited.

5. The term "obverse" in the claims is a relative term, which renders the claims indefinite. The term "obverse" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The term obverse is defined by Webster's New Riverside dictionary as "facing or turned toward the observer", since the term is relative to the observer and could constitute both sides if there were two observers and would constantly change depending on the observer, the scope of the invention cannot be ascertained.

6. Claims 6, 10, 23, 32, and 36 appear to be an attempt at Markush type claims, but are not properly worded for a Markush type group. It is not clear whether applicant is claiming the aperture types in the alternative which is suggested by the wording "each pairs apertures being identically selected from the *group* of aperture types *consisting of*"; group and consisting of indicate an attempt at a Markush type claim which would indicate an alternative, but then applicant claims at least one pair of each type being selected. Furthermore it is not clear what is

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meant by each pairs apertures being identically selected when applicant further states the at least one pair of each type is selected. The claims are generally unclear rendering the claims indefinite.

*Claim Rejections - 35 USC § 102*

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 30, as the examiner best understands them, are rejected under 35 U.S.C. 102(b) as being anticipated by Whitney (US Patent # 156,614). Whitney discloses a sling fitting for a firearm comprising a fitting body, with two planar sides comprising a main aperture, having a center; a projection, likewise having a center, radially displaced from the main aperture, the centers of the main aperture and the projection defining a radius; at least two connection apertures for attachment of a sling system to the weapon, the connection apertures being of at least two different shapes so as to accommodate different types of slings. The connections apertures being on a same side of the radius. It is noted that the [a) statements of intended use or field of use, b) "adapted to" or "adapted for" clauses, c) "wherein" clauses, or d) "whereby"] clauses are essentially method limitations or statements of intended or desired use. Thus, these claims as well as other statements of intended use do not serve to patentably distinguish the claimed structure over that of the reference. See *In re Pearson*, 181 USPQ 641; *In re Yanush*,

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177 USPQ 705; In re Finsterwalder, 168 USPQ 530; In re Casey, 512 USPQ 235; In re Otto, 136 USPQ 458; Ex parte Masham, 2 USPQ 2nd 1647.

See MPEP § 2114 which states:

A claim containing a “recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from the prior art apparatus” if the prior art apparatus teaches all the structural limitations of the claim. Ex parte Masham, 2 USPQ 2nd 1647

Claims directed to apparatus must be distinguished from the prior art in terms of structure rather than functions. In re Danly, 120 USPQ 528, 531.

Apparatus claims cover what a device is not what a device does. Hewlett-Packard Co. v. Bausch & Lomb Inc., 15 USPQ2d 1525, 1528.

As set forth in MPEP § 2115, a recitation in a claim to the material or article worked upon does not serve to limit an apparatus claim.

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lindsey (US Patent # 6,260,748). Lindsey discloses a sling fitting for a firearm comprising a fitting body, with two planar sides comprising a main aperture, having a center; a projection, likewise having a center, radially displaced from the main aperture, the centers of the main aperture and the projection defining a radius. Lindsey discloses one embodiment of the sling fitting having circular apertures for accommodating one type of sling and the other having slots for accommodating another type of sling. Lindsey discloses the claimed invention except for



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making the two sling fittings of the embodiments integral. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the adapter with the two fittings, since it has been held that forming in one piece an article which as formerly been formed in two pieces involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893). The connections apertures being on a same side of the radius. The sling fitting further comprising a depression, opposite the projection on the reverse of the sling fitting. The sling fitting further comprising a nub, within the interior of the main aperture along the radius. The connection apertures being organized into at least two pairs with each member of each pair being on opposite sides of the radius. The connection apertures being organized into at least two pairs with each member of each pair being on opposite sides of the radius. The aperture types consisting of: apertures for point slings, apertures for threaded slings. Lindsey discloses the claimed invention except for the specific angles and dimensions. It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the adapter with the specific angles and dimensions, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). A line drawn from the center of the projection to a center of each member of at least one pair of point sling apertures forms an angle between 70° and 110° with the radius. A line drawn from the center of the projection to a center of each member of at least one pair of point sling apertures forms a right angle with the radius. At least one aperture is a threaded sling aperture and at least one other is a point sling aperture radially spaced from the main aperture and defining a center.

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***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lindsey (US Patent # 6,536,153), Garrett et al. (US Patent # 6,598,330), Verdugo et al. (US Patent # 6,520,390), Edmisten (US Patent # 4,209,157), and Johnson (US Patent # 4,823,998).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle (Shelley) Thomson whose telephone number is 703.306.4176 or at 571.272.6884 after 4/5/05. The examiner can normally be reached on Monday thru Thursday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 703.306.4198. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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